

Policy on Reasonable Accommodation for Individuals With Disabilities

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1. Purpose

This policy establishes the practices and procedures, including the allocation of responsibilities, for providing reasonable accommodation for qualified individuals with disabilities at the Millennium Challenge Corporation (MCC).

2. Scope

This policy applies to all MCC employees, full- and part-time MCC Personal Services Contractors (PSCs), and any applicants with disabilities for positions at MCC.

3. Authorities

3.1. Acts and Executive Orders

- a. Executive Order 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation (July 26, 2000).
- b. Rehabilitation Act of 1973, 29 U.S.C. 701 et seq.
- c. Title I of the Americans with Disabilities Act of 1990 (ADA), as amended.
- d. American's with Disabilities Amendments Act (ADAAA) of 2008, Public Law 110-325 ADAAA, effective 2009.
- e. Genetic Information Nondiscrimination Act of 2008, 42 U.S.C., Chapter 21F.
- f. Title VII of the Civil Rights Act of 1964, et seq.
- g. Privacy Act of 1974, 5 U.S.C. §552a.
- h. Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151-4156.

3.2. Federal Regulations and Guidance

- a. U.S. Equal Employment Opportunity Commission (EEOC) Management Directive 715 providing policy guidance and standards for establishing and maintaining effective affirmative programs of equal employment opportunity under Section 717 of Title VII (Part A) and effective affirmative action programs under Section 501 of the Rehabilitation Act (Part B).
- b. EEOC Policy Guidance on Executive Order 13164, Establishing Procedures to Facilitate Provision of Reasonable Accommodation (October 20, 2000).
- c. EEOC Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act (March 1, 1999).
- d. Title 5 of the Code of Federal Regulations, Part 339, Medical Qualification Determinations.
- e. Title 29 of the Code of Federal Regulations, Part 1614, Federal Sector Equal Employment Opportunity.

- f. Title 29 of the Code of Federal Regulations, Part 1630, Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act.
- g. Title 29, Code of Federal Regulations, Part 1635, Genetic Information Nondiscrimination Act of 2008.

4. Definitions

As used in this policy, the following terms shall have the definitions provided below in this Section 4.

Term	Definition
Accessible	Enter, operate, participate in, or use safely, independently by a person with a disability (i.e., site, facility, work environment, service or program).
Auxiliary Aids and Services	Accommodations that may include qualified interpreters and other effective methods or making aurally delivered materials available to individuals with hearing impairments, qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments, acquisition or modification of equipment or devices, and other similar services and actions.
Business Days	Every official work day of the week (Monday through Friday), and does not include federal holidays and weekends. If a deadline falls on a weekend or holiday, then the next business day that immediately follows the holiday or weekend will be applicable for purposes of calculating the deadline.
Denial	The Reasonable Accommodation Coordinator makes an informed decision to deny the individual's specific reasonable accommodation and does not offer an alternative in its place, or an alternative accommodation is offered and is declined by the individual.
Disability	For purposes of providing a reasonable accommodation, "disability" is defined as a physical or mental impairment that substantially limits one or more of the major life activities (defined below) of any individual, and a record of such impairment, or being regarded as having such impairment.
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
Essential Function	The fundamental duties of a position or the basic job duties that an employee, PSC, or applicant must be able to

Term	Definition
	perform, with or without a reasonable accommodation.
Episodic or Remission	A disability that would substantially limit major life activities when active. Examples of impairments that may be episodic or in remission include epilepsy, hypertension, multiple sclerosis, asthma, diabetes, major depression, bipolar disorder, schizophrenia, and cancer.
Extenuating Circumstances	Factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation or situations in which unforeseen or unavoidable events prevent prompt processing and delivery of an accommodation.
Grant or Granted	The Reasonable Accommodation Coordinator makes an informed decision to approve the individual's specific accommodation request or an alternative accommodation which the employee (or PSC or applicant) and his/her manager believe will be effective.
Individual with a Disability	A person who has a physical or mental impairment that substantially limits one or more of that person's major life activities or who has a record of such an impairment.
Interactive Process	The process by which the individual requesting an accommodation and the Reasonable Accommodation Coordinator discuss the request for accommodation, determine whether an accommodation will be provided, and examine the potential of alternative accommodations.
Major Life Activity	In general, a major life activity includes, but is not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communication, and working. A major life activity, also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.
PSC	Any full-time or part-time personal services contractor.
Physical or Mental Impairments	Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or any mental or psychological disorder, such as an intellectual

Term	Definition
	disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
Qualified Individual	An individual who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or seeks, and how, with or without reasonable accommodation, can perform the essential functions of such position.
Reasonable Accommodation	A change or adjustment that enables a qualified individual with a disability to apply for a job, perform job duties, or enjoy benefits and privileges of employment. There are three (3) categories of reasonable accommodation: (1) modifications or adjustments to a job application process to permit an individual with a disability to be considered for a job; (2) modifications or adjustments to enable a qualified individual with a disability to perform the essential functions of the job; and (3) modifications or adjustments that enable individuals with disabilities to enjoy the benefits and privileges of employment.
Reassignment	Reasonable accommodation of last resort, that, absent undue hardship, is provided to employees (not applicants or PSCs) who, because of a disability can no longer perform the essential functions of their job, with or without a reasonable accommodations. Reassignments are made only to funded vacant positions for employees who are qualified to fill the vacant position. If the employee is qualified for the position, he/she will be reassigned to the job and will not have to compete.
Reasonable Accommodation Coordinator or RAC	The MCC employee (or employees) designated by MCC to fulfill the identified responsibilities set forth in this policy.
Reconsideration	A voluntary mechanism through which an individual can request reconsideration of denial of reasonable accommodation, regardless of whether the person has started the EEO complaint process.
Requester	An individual with a disability, or an individual acting on his/her behalf, who requests an accommodation.
Reviewing Official	The MCC employee designated by MCC to fulfill the identified responsibilities set forth in this policy.
Undue Hardship	An action requiring significant difficulty or expense. A determination of undue hardship is based on several factors, including but not limited to: the nature and cost of the accommodation needed, the overall financial resources of

Term	Definition
	the facility making the reasonable accommodation; the number of persons employed at the facility; the effect on expenses and resources of the facility, the type of facility, the type of operation of the employer, including the structure and functions of the workforce, and the impact of the accommodation on the operation of the facility.
Vacant Position	A position that is available when an individual asks for reassignment as a reasonable accommodation.

5. Responsibilities

- a. Office of the Chief Executive Officer (OCEO):
 - i. Take appropriate steps to ensure adequate funding and staff to carry out this policy.
 - ii. Designate an MCC employee to serve as a Reviewing Official for purposes of reviewing accommodation requests that are denied and for which the requester (or an individual acting on the requester's behalf) is seeking reconsideration.
- b. Human Resources Management Division (HRM):
 - i. Designate a Reasonable Accommodation Coordinator(s) (RAC). The RAC responsibilities shall include (as further elaborated in this policy):
 - A. Acknowledge receipt of an accommodation request in writing as soon as possible, so that requestor is aware that request has been received by the RAC;
 - B. Initiate the interactive process (as described below) with the requester and ensure compliance with all applicable timelines and requirements as set forth in this policy and in compliance with applicable laws and regulations;
 - C. Advise requesters, immediate supervisors, and other members of MCC management, as appropriate, on the progress of the request, and coordinate as appropriate with supervisors; and
 - D. Issue a written decision on whether an accommodation request is granted or denied, or an alternative accommodation is proposed.
 - ii. Ensure that job vacancy announcements contain a notice to applicants regarding the process for making a reasonable accommodation requests and the point of contact responsible for processing such requests, including appropriate contact information for accommodation related matters.
 - iii. Identify vacant positions for which an employee is qualified in cases where reassignment to a vacant position is being considered as a reasonable accommodation.
- c. Office of the General Counsel (OGC):
 - i. Advise the RAC, management officials, supervisors, and others as needed regarding laws and regulations pertaining to reasonable accommodation.
 - ii. Conduct a legal risk analysis, when necessary, on proposed decisions to deny a reasonable accommodation request or provide an alternative accommodation.
- d. Office of Equal Employment Opportunity (OEEO):
 - i. Assist OGC and HRM as needed with training and the provision of information materials regarding reasonable accommodation procedures and policies.

- ii. Conduct periodic review of this policy to ensure compliance with laws, regulations, and other MCC policies.
- iii. Otherwise oversee and maintain MCC's EEO Program.
- e. HRM and OEEO jointly:
 - i. Approve interpretations, directives and other materials outlining MCC's Reasonable Accommodation Policy.
 - ii. Ensure that MCC's systems of records keep track of requests for reasonable accommodation, and the following information:
 - A. the number of reasonable accommodations, by type, that have been requested for the application process and whether those requests have been granted or denied;
 - B. the jobs (occupational series, grade level, and agency component) for which reasonable accommodations have been requested;
 - C. the types of reasonable accommodations that have been requested for each of those jobs;
 - D. the number of reasonable accommodations, by type, for each job that have been approved, and the number of accommodations, by type, that have been denied;
 - E. the number of requests for reasonable accommodations, by type, that relate to the benefits or privileges of employment, and whether those requests have been granted or denied;
 - F. the reasons for denial of requests for reasonable accommodation;
 - G. the amount of time taken to process each request for reasonable accommodation; and
 - H. the sources of technical assistance that have been consulted in trying to identify possible reasonable accommodations.

6. Policies and Procedures

- a. **MCC Policy:** MCC will provide reasonable accommodation for employees, PSCs, and applicants to permit a qualified individual with a disability to be considered for a job, enable a qualified individual with a disability to perform the essential functions of the job, and enable individuals with disabilities to enjoy the benefits and privileges of employment, unless the accommodation is an undue hardship to the agency. The employee, PSC, or applicant need not have in mind or request a particular accommodation before making the request.
- b. **Accommodation Request Procedures for MCC Employees, PSCs, and Applicants for Employment with MCC:**
 - i. An MCC employee or PSC, or an individual acting on their behalf, should make the accommodation request orally or in writing to (1) a supervisor or manager in the individual's chain of command, or (2) the RAC. If the employee or PSC makes a request to any other manager or individual, including his/her immediate supervisor, in lieu of the RAC, then such person must notify to the RAC immediately. The RAC's contact information for this Section 6(b)(i) is set forth below:
Talaya R. Clay
Work-Life Program Manager
202-521-4086
 - ii. An applicant for a vacancy at MCC, or an individual acting on their behalf, must make the accommodation request orally or in writing, to the HRM representative listed on the vacancy announcement, who must promptly notify the RAC. If the request is made to an

MCC employee other than the HRM representative in the vacancy announcement, that person must promptly notify the RAC. The RAC's contact information for this Section 6(b)(ii) is set forth below:

Lavetta Young

Lead Human Resources Specialist

Tel: 202 521-7261

- A. MCC will not require medical documentation except where needed to fully evaluate the request, such as where the disability and/or need for accommodation is not obvious or already known.
- B. MCC has a right to request relevant supplemental medical information (see Section 6(d) below for additional information about such medical documentation) if the information submitted by a requestor does not clearly explain (1) the nature of the disability, or (2) the need for the reasonable accommodation, or otherwise
- C. clarify how the requested accommodation will assist the employee or PSC to perform the essential functions of the job or to enjoy the benefits and privileges of the workplace, or assist an applicant with the application process.
- D. MCC reserves the right to have medical information reviewed by its own medical expert at MCC's expense.
- E. The RAC will promptly respond to a requestor who may have provided insufficient documentation as to what additional information still is needed.
 1. The RAC shall promptly acknowledge the request in writing and begin discussing the accommodation request. The RAC will continue to communicate as needed with the requestor and other concerned individuals throughout the request process until the decision has been reached.
 2. As soon as practical under the circumstances but no later than thirty (30) business days after receiving the initial request for an accommodation, the RAC will issue a decision on the request to either (1) grant the request and provide a reasonable accommodation to the qualified individual, (2) deny the request, or (3) propose an alternative reasonable accommodation. This deadline to respond to the requester may be extended in limited situations due to extenuating circumstances, in which case the RAC must notify the requester in writing as to why the time frame needs extension. Extenuating circumstances are factors that could not reasonably have been anticipated or avoided in advance of the request for the accommodation or the granting of such request. Examples include circumstances such as where special equipment or furniture must be back-ordered or the vendor typically used by MCC is unable to provide the accommodation.
 3. When it is reasonably likely that a requester will be entitled to a reasonable accommodation but the accommodation is not immediately available, the RAC may provide an interim accommodation, subject to the requester's approval, which allows the requester to perform some or all of the essential functions of the job in the interim, or assist an applicant with the application process if that alternative accommodation does not impose an undue hardship to the agency.
 4. In certain circumstances, a request for reasonable accommodation may require an expedited review by the RAC.

c. Denial of a Request for Reasonable Accommodation: Any denial of a request for reasonable accommodation shall be in writing. Such denial shall specifically state the reasons for the denial,

the reasons an alternative accommodation would not be effective, and the employee's, PSC's, or applicant's right to file an EEO complaint for other statutory process, as applicable. MCC shall utilize the "Denial of Reasonable Accommodation Request Form", attached to this policy.

- d. **Request for Reconsideration:** An applicant for a reasonable accommodation can seek reconsideration of a decision by the RAC denying a request for reasonable accommodation or a proposal for an alternative accommodation. The Request should specifically state the reasons the applicant believes the decision is wrong, inappropriate, or otherwise inconsistent with this Policy and should be reconsidered. Any such request for reconsideration of the RAC's decision must be submitted in writing to the Reviewing Official appointed by the CEO under this Policy within ten (10) business days of receiving a denial or proposal for an alternative accommodation.

e. **Medical Documentation:**

- i. The RAC may request supporting medical documentation needed to process and evaluate a reasonable accommodation.
- ii. The RAC may only request information pertaining to the disability that requires a reasonable accommodation. MCC will specify what type of information is being sought regarding the disability, which may include how the disability impairs a major life function of the individual, as well as information necessary to determine what type of accommodation is appropriate under the circumstances.
- iii. MCC may require that the documentation regarding the disability and functional limitations come from an appropriate health care or vocational care professional. Medical or vocational professionals include but are not limited to, medical doctors, psychiatrist, psychologists, nurses, physical therapists, physical therapists, speech therapists, and vocational rehabilitation specialists. MCC may have such documentation reviewed by an appropriate third party health care or vocational care professional at its own expense, if determined necessary and appropriate.
- iv. All medical information shall be kept confidential. This means that all medical information which MCC obtains in connection with a request for reasonable accommodation shall be kept separate from the requestor's personnel file. In addition, individuals who have access to information necessary to make a decision about whether to grant a requested accommodation shall not disclose this information except as follows:
 - A. Supervisors and managers who need to know may be told about necessary restrictions on the work or duties of the employee and about the necessary accommodation(s);
 - B. First aid and safety personnel may be told if the disability might require emergency treatment;
 - C. Appropriate officials may be given information necessary to investigate the agency's compliance with the Rehabilitation Act;
 - D. The information may in certain circumstances be disclosed to workers' compensation offices;
 - E. MCC EEO officials may be given the information to maintain records and evaluate and report on MCC's performance in processing reasonable accommodation requests; and
 - F. Where medical information is disclosed to any of the foregoing officials, MCC must inform those individuals about the confidentiality requirements that attach to the information.

- f. **Reasonable Accommodations:** The following types of accommodations may be available:

- i. **Provision of Auxiliary Aids and Services.** MCC may provide auxiliary aids and services, as necessary.

- ii. **Job restructuring.** Job restructuring includes modifications such as: (A) reallocating or redistributing marginal job functions that an employee, PSC, or applicant is or would be unable to perform because of a disability; and (B) altering when and/or how a function, essential or marginal, is performed. MCC is not required to reallocate essential functions of a job as a reasonable accommodation.
- iii. **Leave.** MCC may permit the use of sick leave, annual leave, administrative leave, or leave without pay, in accordance with applicable laws and guidance, as well as related MCC policies.
- iv. **Reallocation of Marginal Functions or Temporary Transfer.** An accommodation that requires the individual to remain on the job and allows for a reallocation of marginal functions or temporary transfer.
- v. **Modified or Part-Time Schedule.** An employee or PSC may work a modified or part-time schedule as a reasonable accommodation, absent undue hardship to the agency. A modified schedule may involve adjusting arrival or departure times, providing periodic breaks, alternating when certain functions are performed, or allowing an employee or PSC to use paid leave, leave without pay, or administrative leave.
- vi. **Reassignment.** MCC will exhaust all other reasonable accommodation options prior to considering reassignment. Reassignment is required only after it is determined either that:
 - A. There are no effective accommodations that will enable the employee to perform the essential functions of his/her current position; or
 - B. Other accommodations would impose an undue hardship.

Reassignment is an accommodation that applies only to MCC employees, not PSCs or applicants.

MCC may reassign the individual to a vacant position that is equivalent in terms of pay, status, promotion potential, or other relevant factors (e.g., benefits, geographical location) if the employee is qualified for the position.

If there is no vacant equivalent position, MCC may reassign the employee to a vacant lower level position for which the individual is qualified, subject to the employee's approval. If there is more than one vacancy for which the employee is qualified, MCC will place the individual in the position that comes closest to the employee's current position in terms of responsibilities, pay, status, etc.

The RAC will coordinate with HRM and the employee's supervisor in the processing of reassignments.

- g. **Confidentiality:** Except as may be necessary to make a determination on a request for reasonable accommodation, or to implement a reasonable accommodation, the RAC will maintain the confidentiality of any personal information (including medical documentation or other information) obtained in connection with the reasonable accommodation process.

7. Effective Date

This policy is effective as of the approval date referenced above. For the avoidance of doubt, this policy will remain in effect with respect to any successor position or office performing the functions of its predecessor until this policy is modified, revoked, or superseded. In addition, this policy supersedes any prior policy, guidance, and/or delegation of authority with respect to the subject matter hereof.

8. Amendments to this Policy

This policy may be modified or amended at any time in writing with the approval of the Deputy Chief Executive Officer or the Chief of Staff (or such equivalent positions within OCEO as may be in place at such time). However, non-substantive, administrative updates may be made at any time without formally modifying or amending this policy. Such edits include updates to hyperlinks, changes to agency acronyms, names, or titles, or similar types of administrative updates (in each case, with OCEO and OEEEO concurrence).